IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.12.2004

Coram:

The Honourable Mr.MARKANDEY KATJU, Chief Justice

and

The Honourable Mr.Justice N.V.BALASUBRAMANIAN

Writ Petition Nos. 15244 of 2004 & 1682 of 2003

W.P.No. 15244 of 2004

The Perundurai Citizens Welfare Society
Rep. by its President K.P.Paramasivam,
315, Erode Road,
Perundurai - 638 052.
Erode District. ::: Petitioner

Vs.

1. The Tamil Nadu Pollution Control Board,
   rep. by its Member Secretary,
   Anna Salai,
   Chennai - 32.

2. The Perundurai Leather Industries
   Eco Security Private Limited,
   Rep. by its Managing Director,
   SIPCOT Complex,
   Perundurai, Erode District.

3. The SIPCOT Industrial Growth Centre,
   rep. by its Managing Director,
   SIPCOT Complex,
   Perundurai,
   Erode District. ::: Respondents

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

W.P.No. 1682 of 2003

The Perundurai Citizens Welfare Society,
315, Erode Road,
Perundurai,
Rep. by its President,
K.P.Paramasivam. ::: Petitioner

Vs.

1. The Loss of Ecology (Prevention &
Payment of Compensation) Authority,
Rep. by its Member Secretary,
G.N.Chetty Street,
T.Nagar,
Chennai - 600 017.

2. Union of India
rep. by its Secretary to Department of Environment,
New Delhi.

3. Central Pollution Control Board,
rep. by its Member Secretary,
New Delhi.

4. The Tamil Nadu Pollution Control Board,
rep. by its Member Secretary,
Chennai. ::: Respondents

Petitions filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus and Writ of Mandamus for the reasons stated therein.

WEB COPY

For Petitioner in
W.P.No.15244 of 2004 :: Mr.R.Thiagarajan, SC
For Mr.N.Manokaran

For Petitioner in
W.P.No.1682 of 2003 :: Mr.V.Subramanian

https://hcservices.ecourts.gov.in/hcservices/

For Respondent 1
in W.P.No.15244/04 :: Mr.N.R.Chandran
Advocate General for
Mrs.Rita Chandrasekaran

For Respondent 2
in W.P.No. 15244/04 :: Mr.K.Rajasekar

For Respondent 1
in W.P.No.1682/03 :: Mr.K.Mohammed Ali

For Respondent2
in W.P.No.1682/03 :: Mr.N.Muralikannan
ACGSC

For Respondent 4
in W.P.No.1682/03 :: Mr.N.R.Chandran
Advocate General for
Mrs.Rita Chandrasekaran

O R D E R

THE HONOURABLE THE CHIEF JUSTICE

These two writ petitions are being disposed off by this common judgment.

2. Heard the learned counsel for the parties. We have perused the records in the above two writ petitions.

3. The writ petitions relate to allegations of pollution by Tanneries.

4. W.P.No.15244 of 2004 has been filed praying for the issue of a Writ of Certiorarified Mandamus to quash the Consent Order dated 16.8.2002 issued by the first respondent/Tamil Nadu Pollution Control Board in favour of the 2nd respondent/The Perundari Leather Industries Eco Security Private Limited (hereinafter called 'PLIES').

5. W.P.No. 1682 of 2003 has been filed praying that no tanneries should be set up in and around Perundurai, as it would cause damage to the drinking water, as well as water used for agriculture purposes.

6. The petitioner in W.P.No. 15244 of 2004 claims to be a Welfare Society registered under Section 10 of the Tamil Nadu Societies Registration Act, 1975. It is alleged in paragraph-3 of the affidavit filed in support of this petition that there are about 800 tanneries situated in the State of Tamil Nadu, of which

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

about 550 are in Vellore district, 100 in Dindigul district, 150 located in Pammal and Pallavaram and 50 tanneries in Erode and some in Trichy District. It is alleged that these tanneries let out effluents, which contain Total Dissolved Solids (TDS) not less than 10000 to 15000 mg/1 litre. The outer limit fixed for discharge of TDS is only 2100 mg/per 1 litre for the tanneries.

7. The Supreme Court in VELLORE CITIZENS' WELFARE FORUM Vs. UNION OF INDIA (1996) 5 SCC 647 gave several directions relating to tanneries in the State of Tamil Nadu. In the above decision, taking into account the various considerations, the Supreme Court issued the following directions:-

> 1. The Central Government shall constitute an authority under Section 3(3) of the Environment (Protection) Act, 1986 and shall confer on the said authority all the powers necessary to deal with the situation created by the tanneries and other polluting industries in the State of Tamil Nadu. The authority shall be headed by a retired Judge of the High Court and it may have other members — preferably with expertise in the field of pollution control and environment protection — to be appointed by the Central Government. The Central Government shall confer on the said authority the powers to issue directions under Section 5 of the Environment Act and for taking measures with respect to the matters referred to in clauses (*v*), (*vi*), (*vii*), (*viii*), (*ix*), (*x*) and (*xii*) of sub-section (2) of Section 3. The Central Government shall constitute the authority before September 30, 1996.
>
> 2. The authority so constituted by the Central Government shall implement the "Precautionary Principle" and the "Polluter Pays Principle". The authority shall, with the help of expert opinion and after giving opportunity to the polluters concerned assess the loss to the ecology/environment in the affected areas and shall also identify the individuals/families who have suffered because of the pollution and shall assess the compensation to be paid to the said individuals/families. The authority shall further determine the compensation to be recovered from the polluters as cost of reversing the damaged environment. The authority shall lay down just and fair procedure for completing the exercise.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

3. The authority shall compute the compensation under two heads namely, for reversing the ecology and for payment to individuals. A statement showing the total amount to be recovered, the names of the polluters from whom the amount is to be recovered, the amount to be recovered from each polluter, the persons to whom the compensation is to be paid and the amount payable to each of them shall be forwarded to the Collectors/District Magistrates of the area concerned. The Collector/District Magistrate shall recover the amount from the polluters, if necessary, as arrears of land revenue. He shall disburse the compensation awarded by the authority to the affected persons/families.

4. The authority shall direct the closure of the industry owned/managed by a polluter in case he evades or refuses to pay the compensation awarded against him. This shall be in addition to the recovery from him as arrears of land revenue.

5. An industry may have set up the necessary pollution control device at present but it shall be liable to pay for the past pollution generated by the said industry which has resulted in the environmental degradation and suffering to the residents of the area.

6. We impose pollution fine of Rs.10,000 each on all the tanneries in the districts of North Arcot Ambedkar, Erode Periyar, Dindigul Anna, Trichi and Chengai M.G.R. The fine shall be paid before October 31, 1996 in the office of the Collector/District Magistrate concerned. We direct the Collectors/District Magistrates of these districts to recover the fines from the tanneries. The money shall be deposited, along with the compensation amount recovered from the polluters, under a separate head called "Environment Protection Fund" and shall be utilised for compensating the affected persons as identified by the authorities and also for restoring the damaged environment. The pollution fine is liable to be recovered as arrears of land revenue. The tanneries which fail to deposit the amount by October 31, 1996 shall be

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

closed forthwith and shall also be liable under the Contempt of Courts Act, 1971.

7. The authority, in consultation with expert bodies like NEERI, Central Board, Board shall frame scheme/schemes for reversing the damage caused to the ecology and environment by pollution in the State of Tamil Nadu. The scheme/schemes so framed shall be executed by the State Government under the supervision of the Central Government. The expenditure shall be met from the "Environment Protection Fund" and from other sources provided by the State Government and the Central Government.

8. We suspend the closure orders in respect of all the tanneries in the five districts of North Arcot Ambedkar, Erode Periyar, Dindigul Anna, Trichi and Chengai M.G.R. We direct all the tanneries in the above five districts to set up CETPs or Individual Pollution Control Devices on or before November 30, 1996. Those connected with CETPs shall have to install in addition the primary devices in the tanneries. All the tanneries in the above five districts shall obtain the consent of the Board to function and operate with effect from December 15, 1996. The tanneries who are refused consent or who fail to obtain the consent of the Board by December 15, 1996 shall be closed forthwith.

9. We direct the Superintendent of Police and the Collector/District Magistrate/Deputy Commissioner of the district concerned to close all those tanneries with immediate effect who fail to obtain the consent from the Board by the said date. Such tanneries shall not be reopened unless the authority permits them to do so. It would be open to the authority to close such tanneries permanently or to direct their relocation.

10. Government Order No. 213 dated March 30, 1989 shall be enforced forthwith. No new industry listed in Annexure I to the notification shall be permitted to be set up within the prohibited area. The authority shall review the cases of all the industries

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

which are already operating in the prohibited area and it would be open to the authority to direct the relocation of any of such industries.

11. The standards stipulated by the Board regarding total dissolved solids (TDS) and approved by the NEERI shall be operative. All the tanneries and other industries in the State of Tamil Nadu shall comply with the said standards. The quality of ambient waters has to be maintained through the standards stipulated by the Board.

8. In Paragraph 26 of the aforesaid judgment, the Supreme Court observed that the Madras High Court would be in a better position to monitor the above directions, and hence, the Chief Justice of the Madras High Court was requested to constitute a special "Green Bench" to deal with the case and other environmental matters. The High Court was requested to treat the matter as a petition under Article 226 of the Constitution of India and gave liberty to the parties to approach the High Court as and when necessary. As per the directions of the Honourable Supreme Court in the aforesaid decision, the Chief Justice of Madras High Court nominated Hon'ble Mr.Justice P.Bhaskaran, as the Chairman of the authority constituted under direction no.(1) of the order of the Supreme Court mentioned above.

9. The Honourable Mr.Justice P.Bhaskaran on 12.10.99 visited Erode and SIPCOT Industrial Estate, Perundurai and recommended that all tanneries in Erode must be shifted to State Industries Promotion Corporation of Tamil Nadu Limited (in short 'SIPCOT'), Perundurai in order to reduce pollution in the river Cauvery and Kalingarayan Canal, the main sources of drinking water and irrigation of Erode Distirct.

10. It may be mentioned that Tamil Nadu Co-operation for Industrial Infrastructure Development (in short 'TACID') have put up an Industrial Growth Centre at Perundurai and Engur villages, Perundurai Taluk, Erode District by acquiring 2800 acres of lands. Subsequently, in the year 1999 the Perundurai Industrial Growth Centre was merged with SIPCOT. Since the entire extent of 2800 acres of land had not been utilized for the purpose for which it has been acquired, the TACID approached the 1st respondent with a request to give consent to establish a Common Effluent Treatment Plant (in short 'CETP') to enable the tanneries at Erode to relocate their units to SIPCOT complex.

11. On 17.03.2001, the District Environmental Engineer issued instructions to form a CETP and asked Erode tanners to shift their tanning activities to SIPCOT Complex, Perundurai. On

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

28.04.2001, the District Collector wrote a detailed D.O. letter on the present status of river Cauvery and Kalingarayan canal and strongly recommended for the shifting of tanneries in Erode to SIPCOT Complex, Perundurai for curtailing the pollution. The District Collector, Erode requested the SIPCOT Industrial Growth Centre to allot lands for the tanneries. Thereafter, Erode District Small Industries Association, informed the Tamil Nadu Pollution Control Board about the steps taken by them to set up a tannery complex at SIPCOT Industrial Growth Centre, Perundurai. About 50 tanneries in and around Erode Town have been asked to relocate their units at SIPCOT Complex, Perundurai.

12. The petitioner in the present writ petition had also filed Writ Petition No. 1682 of 2003 praying for the relief of Mandamus forbearing the respondents from permitting any polluting industries, particularly tanneries, either old or new, to be established in and around Perundurai. In that petition, the Division Bench of this Court on 24.01.2004 passed the following order:-

> " Notice to respondents 1 and 2. Pollution Control Board not to give consent for establishment of any new tannery pending further orders"

13. It is alleged in paragraph-7 of the affidavit filed in support of the petition that despite the communication of the above said order, the second respondent/PLIES has proceeded with the construction of tanneries. The petitioner came to know that the consent was issued prior to the order of the Division Bench in W.P.No.1682 of 2003, and hence by this petition they have challenged the consent order dated 16.08.2002 issued by the first respondent/ Tamil Nadu Pollution Control Board in favour of the second respondent/PLIES. It is submitted that Section 25(3) of the Water (Prevention and Control of Pollution) Act, 1974 has been violated, as the enquiry before granting consent was not held. It is also submitted that as per the Environment Impact Assessment Notification S.O.60 (E) Dated 27.1.2004 prior environmental clearance from the Ministry of Environment and Forest, Government of India has not been obtained. It is alleged that setting up of tanneries will cause damage to the agriculturists living in that area, as the main water source will be polluted. It is alleged that the "Precautionary Principle" has been violated. It is also alleged that permitting polluting industries in the area will have adverse affect on the patients and will aggravate the infectious diseases.

14. It is alleged in paragraph-4 (j) of the affidavit filed in support of the writ petition that the respondents are planning to permit tanneries in Perundurai, which is land locked for almost 25 kms. radius and they do not have any perennial river. It is alleged that the "Precautionary Principle" is being violated by permitting polluting industries to be set up in that

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

area. It is alleged that if tanneries are allowed to be set up there, effluents that would be discharged by the tanneries will pollute the ground water. The petitioner, therefore, prays that no tanneries should be set up in and around Perundurai, as it would cause damage to the drinking water, as well as water used for agriculture purposes.

15. In the counter affidavit filed on behalf of the first respondent/Tamil Nadu Pollution Control Board in W.P.No.15244 of 2004, it has been clarified that whereas in its interim order in Writ Petition (C) No.914 of 1991 (Vellore Citizens' Welfare Forum Vs. Union of India and others), the Supreme Court had prohibited setting up of tanneries in the State of Tamil Nadu, subsequently, in its final judgment, there is no such absolute prohibition. What is stated in direction no.10 contained in the judgment is this:-

> 10. Government Order No. 213 dated March 30, 1989 shall be enforced forthwith. No new industry listed in Annexure I to the notification shall be permitted to be set up within the prohibited area. The authority shall review the cases of all the industries which are already operating in the prohibited area and it would be open to the authority to direct the relocation of any of such industries".

What is now prohibited is setting up of new industries listed in Annexure-I to the Notification dated 30.3.89 in the prohibited area only.

16. The definition of "Prohibited Area", as contained in G.O.Ms.No.213, Environment and Forests (EC-I) dated 30th March 1989, reads:-

> " In the Government Order first read above, the Government have ordered, among other things, that no industry causing serious water pollution should be permitted within one kilometer from the embankments of rivers, streams, dams etc., and that the Tamil Nadu Pollution Control Board should furnish a list of such industries to all local bodies. It has been suggested that it is necessary to have a sharper definition for water sources so that ephemeral water collections like rain water ponds, drains, sewerages (biodegradable) etc., may be excluded from the purview of the above order. The Chairman, Tamil Nadu Pollution Control Board, has stated that the scope of the Government Order may be restricted to reservoirs, rivers and

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

public drinking water sources. He has also stated that there should be a complete ban on location of highly polluting industries within 1 kilometer of certain water sources.

2. The Government have carefully examined the above suggestions. The Government impose a total ban on the setting up of the highly polluting industries mentioned in Annexure-I to this order within one kilometer from the embankments of the water sources mentioned in Annexure II to this order.

3. The Government also direct that under any circumstance if any highly polluting industry is proposed to be set up within one kilometer from the embankments of water sources other than those mentioned in Annexure_II to this order, the Tamil Nadu Pollution Control Board should examine the case and obtain the approval of the Government for it"

Thus, the "Prohibited Area" is an area within one kilometer from the embankments of rivers, streams, dams etc. There is nothing to show that Perundurai comes within the "Prohibited Area", rather it is admitted in paragraph-4 (1) of the affidavit of the petitioner that they are not questioning the competence of the respondents of permitting to set up tanneries in Perundurai.

17. The apprehension of the petitioner is that if tanneries are set up in Perundurai the ground water will get polluted and the agriculturists would not be able to use the land for cultivation due to pollution.

18. Counter affidavit has been filed in W.P.No.1682 of 2003 by the Joint Chief Environmental Engineer, Tamil Nadu Pollution Control Board, Chennai. Paragraphs 6 to 9 of this counter affidavit states as follows:-

" It is respectfully submitted that the Tamil Nadu Corporation for Industrial Infrastructure Development (TACID), a Government of Tamil Nadu enterprises have put up an Industrial Growth Centre at Perundurai & Ingur Villages, Perundurai Taluk, Erode District by acquiring 1133 hectares (2800 acres) of land. This industrial growth center has been planned to accommodate

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

various types of industries such as textile dyeing, tanneries, chemicals etc. The TACID applied to Tamil Nadu Pollution Control Board on 2.4.1996 and obtained consent to establish Water and Air Acts from Tamil Nadu Pollution Control Board on 18.8.97. Subseqsuently, during 1999, the said Perundurai Industrial Growth Centre has been merged with SIPCOT, Tamil Nadu which is now known as SIPCOT Industrial Growth Centre (SIGC).

It is respectfully submitted that the District Collector, Erode District has addressed the Chairman & Managing Director, SIPCOT, Chennai in his letter dt.24.3.2001 to allot land in the SIGC, Perundurai for the tanneries. EEDISSIA (Erode District Small Industries Association) had informed the Board in their letter dated 19.10.2001 about the initiatives taken by them to put up a tannery complex at SIGC, Perundurai.

It is further submitted that 25 proposed tanneries have come forward to establish the tanneries in SIGC and formed a CETP company by name M/s.Perundurai Leather Industries Eco-Security Private Ltd (PLIES) and applied for the consent of the Board under Water and Air Acts on 06.05.2002 to put up a CETP to treat a 2500 KLD of trade effluent arising from the member tanneries. As per the precautionary principle, the Board has advocated for two stage treatment system to address the wastewater problem posed by the tanneries.

Stage No.1 : The physio-chemical, biological treatment system.

Stasge No.II: To propose a system to address the problem of containing total dissolved solids and ensuring zero discharge

The CETP company has been furnished the proposals for Stage I prepared by CLRI, a pioneer research institute exclusively for leather industries. It addresses the solution for biological parameters such as Biochemical oxygen demand and Chemical oxygen demand etc., The proposals pertaining to Stage II could ensure Zero discharge of effluent. Based on the above, Board has issued consent to establish to the CETP company on 16.8.2002 considering the 'precautionary principle' with certain conditions stressing the

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

implementation of treatment systems as per stage I & II before commissioning of the CETP, which treat the trade effluent arising from 25 member tanneries of the CETP. On implementation of consent order conditions, it could be ensured that the reuse of treated effluent zero discharge from the CETP.

It is respectfully submitted that TACID and latter SIGC have developed an industrial complex to accommodate the dyeing industries, tannery industries, chemical industries etc., in Perundurai & Ingur Villages, Perundurai Taluk, Erode District. It is an industrial complex and located away from the prohibited area as contemplated in G.O.Ms.No.213, E & F Dept., dt.30.3.89 and G.O.Ms.No.127, E&F Dept., dt.8.5.98. These G.Os prohibit 14 categories of industries such as tanneries, textile dyeing units etc., located within one km and five km respectively from specified water sources. Further, the implementation of stage I & II by the CETP ensure that the TDS of 2100 mg/l specified by the Board shall be achievable and treated trade effluent shall be completely reused by the member tanneries by installing R.O system with suitable evaporation system for the rejects so as to ensure Zero discharge from the CETP. Under the circumstances, the Board has taken action to comply with the orders of the Hon'ble Supreme Court of India dt.28.8.96 issued in W.P(civil) No.914/91. Thus, the TDS problem can be solved. Moreover, incorporating the above precautionary principles, the consent order to establish to the CETP was issued with appropriate conditions to the above CETP at SIGC, Perundurai on 16.8.2002. On implementation of the treatment system as per the conditions imposed, the apprehension of the petitioner about the TDS problem will be resolved. The CLRI, Chennai and Council for Leather Exports have involved to assist technically and financially in implementation of the CETP, M/s.Perundurai Industries Eco Security Pvt.Ltd, SIGC, Perundurai upto Stage-I. The CETP system proposed at SIGC, Perundurai is a candidate technology and also based on best available technology (BAT) system".

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

It is evident from the above that SIPCOT Industrial Growth Centre, Perundurai, Erode District is not within the "Prohibited Area" as contemplated in G.O.Ms.No.213, E&F Dept., dt.30.3.89 and G.O.Ms.No.127, E&F Dept., dt.8.5.98. Hence, in our opinion, there can be no bar to setting up tanneries in that area.

19. It is also evident from the facts of the case that in May 2002, the Technical and Advisory Consultant, Central Leather Research Instiute (CLRI), a Government of India undertaking, submitted a detailed project report before Tamil Nadu Pollution Control Board for the construction of Common Effluent Treatment Plant on behalf of PLIES. On 16.08.2002, the Tamil Nadu Pollution Control Board issued consent to PLIES for construction of the Common Effluent Treatment Plant with zero discharge concept based on the report of the Central Leather Research Institute. On 25.10.2002, the Council for Leather Exports under the Ministry of Industries and Commerce was appointed as the Implementing Agency of the project and the Government of India sanctioned Rs.294 lakhs as grant for the construction of a Common Effluent Treatment Plant at Perundurai through Council for Leather Exports. On 18.12.2002, the Tamil Nadu Pollution Control Board issued noticed to all 44 tanneries situated at Erode to shift to SIPCOT, Perundurai within 3 months. On 27.01.2003, the Central Leather Research Institute released posters to relocate all the tanneries at Erode to SIPCOT, Perundurai. We are informed that the overall construction of Effluent Treatment Plant has been practically completed at Perundurai.

20. It may be mentioned that consent under Section 25 of The Water (Prevention and Control of Pollution) Act, 1974 was given on 16.08.2002 and the said order is appelable under Section 28. However, without filing any appeal and exhausting the alternative remedy, writ petition No.15244 of 2004 has been filed on 31.05.2004 challenging the consent order granted on 16.08.2002 i.e., after a lapse of 19 months. In our opinion, on this ground alone, the writ petition should have been dismissed. Public Interest Litigation is often misused now days, and such petitions are being filed often with ulterior motive. However, we need not elaborate on this aspect, as we are of the opinion that there are absolutely no merits in this petition.

21. On 12.10.1999, Loss of Ecology (P&PC) Chairman headed by Hon'ble Mr.Justice P.Bhaskaran visited the tanneries situated in Erode, which are polluting river Cauvery and Kalingarayan canal, and directed the tanneries to be shifted to SIPCOT, Perundurai. The Pollution Control Board has also issued notices to all tanneries in Erode to shift to SIPCOT, Perundurai. The State Industries Promotion Corporation of Tamil Nadu Limited (SIPCOT), which is a Government of Tamil Nadu undertaking, had acquired 2500 acres of land in Perundurai, which is far away from the

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

water sources, for the purpose of Industrial Growth Centre for locating the industries declared as capable of highly polluting the environment. In this center, an area of 106 acres of land has been allotted to the tannery zone. About 25 tanneries, which had wanted to shift to Perundurai, formed a company to establish a Common Effluent Treatment Plant, and approached the Central Leather Research Institute, which gave a detailed project report on the basis of which the Pollution Control Board granted consent on 16.08.2002. As per the project report and the conditions of consent there is no discharge of effluent in land and the process involves 'zero discharge'.

22. The total cost of construction of the Common Effluent Treatment Plant was Rs.7 crores, out of which the second respondent (PLIES) has invested Rs.4.06 crores and the Government of India has sanctioned Rs.2.94 crores. The project is being monitored by a wing of the Ministry of Industries namely Council for Leather Exports. It is alleged that the construction of Common Effluent Treatment Plant is almost complete. The photographs showing the stage of the construction is enclosed as an annexure.

23. In our opinion, the writ petition is an abuse of process of the Court. The Common Effluent Treatment Plant will be used by 25 tanneries and they will let out effluents to this Common Effluent Treatment Plant, which will be treated and recycled with zero discharge. We cannot see what objection any one can have to this.

24. The factual position has been set out in great detail in paragraphs 6 to 9 of the counter-affidavit of the Tamil Nadu Pollution Control Board in W.P.No. 1682 of 2003, which we have quoted in entirety above. A perusal of these factual averments clearly show that the authorities have ensured that there will be no pollution in Perundurai, because of the Common Effluent Treatment Plant, and the apprehension of the petitioner is wholly misconceived.

25. As already stated above, these days "public interest litigation" has become largely "private interest litigation" for ulterior motives, or is misused by business rivals, or persons who sponsor such litigation from behind with mala fide intentions. We cannot appreciate these tactics. The docket of the Court is already overful with arrears. The Court should discourage this kind of motivated litigation, which only adds to its burden.

26. In a very recent decision of the Supreme Court in Special Leave Petition (Civil) No.26269 of 2004 (Dattaraj Nathuji Thaware Vs. State of Maharashtra) dated 14.12.2004, it has come down very heavily on public interest litigation, which is filed with ulterior motive eg., black mailing. The Supreme Court in that decision observed:-

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

" Public Interest Litigation which has now come to occupy an important field in the administration of law should not be "publicity interest litigation" or "Private interest litigation" or "politics interest litigation" or the latest trend "paise income litigation". The High Court has found that the case at hand belongs to the last category. If not properly regulated and abuse averted, it becomes also a tool in unscrupulous hands to release vendetta and wreck vengeance, as well. There must be real and genuine public interest involved in the litigation and not merely an adventure of knight errant borne out of wishful thinking. It cannot also be invoked by a person or a body of persons to further his or their personal causes or satisfy his or their personal rudge and enmity. Courts of justice should not be allowed to be polluted by unscrupulous litigants by resorting to the extraordinary jurisdiction. A person acting bona fide and having sufficient interest in the proceeding of public interest litigation will alone have a locus standi and can approach the Court to wipe out violation of fundamental rights and genuine infraction of statutory provisions, but not for personal gain or private profit or political motive or any oblique consideration. These aspects were highlighted by this Court in The Janata Dal Vs. H.S.Chowdhary 1992 (4) SCC 305 and Kazi Lhendup Dorji Vs. Central Bureau of Investigation 1994 Supp (2) SCC 116. A writ petitioner who comes to the Court for relief in public interest must come not only with clean hands like any other writ petitioner but also with a clean heart, clean mind and clean objective (See Ramjas Foundation Vs. Union of India, AIR 1993 SC 852 and K.R.Srinivas Vs. R.M.Premchand, 1994 (6) SCC 620.

It is depressing to note that on account of such trumpery proceedings initiated before the Courts, innumerable days are wasted, which time otherwise could have been spent for the disposal of cases for the genuine litigants. Though we spare no efforts in fostering and developing the laudable concept of PIL and extending our long arm of sympathy to the poor, the ignorant, the oppressed and the needy whose fundamental rights are infringed and violated and whose grievances go unnoticed, un-represented and unheard; yet we cannot avoid but express our opinion that while genuine litigants with legitimate grievances relating to civil matters involving properties worth hundreds of millions of rupees and criminal cases in which persons sentenced to death facing gallows under untold agony and persons sentenced to life imprisonment and kept in incarceration for long years, persons suffering from undue delay in service matters – government or private, persons awaiting the disposal of cases wherein huge amounts of public revenue or unauthorized collection of tax amounts are locked up, detenue expecting their release from the

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

detention orders etc., etc., are all standing in a long serpentine queue for years with the fond hope of getting into the Courts and having their grievances redressed, the busybodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no public interest except for personal gain or private profit either of themselves or as a proxy of others or for any other extraneous motivation or for glare of publicity break the queue muffing their faces by wearing the mask of public interest litigation and get into the Courts by filing vexatious and frivolous petitions and thus criminally waste the valuable time of the Courts and as a result of which the queue standing outside the doors of the Courts never moves, which piquant situation creates frustration in the minds of the genuine litigants and resultantly they lose faith in the administration of our judicial system.

Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity seeking is not lurking. It is to be used as an effective weapon in the armory of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity oriented or founded on personal vendetta. As indicated above, Court must be careful to see that a body of persons or member of public, who approaches the Court is acting bona fide and not for personal gain or private motive or political motivation or other oblique considerations. The Court must not allow its process to be abused for oblique considerations by masked phantoms who monitor at times from behind. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives, and try to bargain for a good deal as well to enrich themselves. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busybodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs.

As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that Courts are flooded with large number of so called public interest litigations where even a minuscule percentage can legitimately be called as public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in large number of cases, yet unmindful of the real intentions and objectives, Courts are entertaining such petitions and

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

wasting valuable judicial time which, as noted above, could be otherwise utilized for disposal of genuine cases."

27. The entire matter has been considered in detail by the concerned authorities, and this court should not sit as a Court of appeal over the decisions of such authorities, who have expertise in the matter. The Court does not have expertise in these matters, and should exercise judicial restraint as held by a Division Bench of this Court in RAMA.MUTHURAMALINGAM v. THE DEPUTY SUPERINTENDENT OF POLICE (2004 (5) CTC 554)

28. In a very recent decision in W.P.No. 33528 and 34436 of 2004 dated 17.12.2004, (Sethu Samudhram Case) this Court in detail expressed its views on the need for rapid industrialization to make India a modern and powerful industrial State. In the above decision, this court also considered the question of industrialization and its relation with environmental protection, and we reiterate the views expressed in that decision.

29. With the above observations, these two writ petitions are dismissed with costs of Rs.1500/- one set. The interim order already granted stands vacated.

Pv/

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

Copy to:

1. The Member Secretary,
   The Tamil Nadu Pollution Control Board,
   Anna Salai,
   Chennai - 32.

2. The Member Secretary,
   The Loss of Ecology (Prevention &
   Payment of Compensation) Authority,
   G.N.Chetty Street,
   T.Nagar,
   Chennai - 600 017.

3. The Secretary to Department of Environment,
   Union of India
   New Delhi.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

4. The Member Secretary,
Central Pollution Control Board,
New Delhi.

5. The Managing Director,
Sipcot Industrial growth Centre
SIPCOT Complex, Perundurai,
Erode District.

2 ccs to Mr.N.Manokaran, Counsel for petitioner
Sr.56259, 56260 of 2004

1 cc to Mr.K.Rajasekar, Counsel for petitioner Sr 56418 of 2004

1 cc to Mr.N.Muralidharan, Sr.No,50322 of 2004

1 cc to Mr.ritaChandrasekar, Sr.No.56452 of 2004.

cbm[co]
kvd

W.P.Nos.15244/04 &
1682 of 2003

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/